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of all others similarly situated

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 RICHARD A. SILBER, an individual and on) CASE NO. 3:08CV00637-JLS-RBB
11 behalf of all others similarly situated,)
12 Plaintiff,)
13 vs.)
14 SHOP-VAC CORPORATION, a Pennsylvania) PLAINTIFF'S EVIDENTIARY
15 Corporation, and DOES 1 through 100,) OBJECTIONS TO PROFFERED
16 inclusive,) EVIDENCE SET FORTH IN
17 Defendants.) DEFENDANT'S MOTION TO DISMISS
18) FIRST AMENDED COMPLAINT
19) ACCOMPANYING DOCUMENTS:
20) Plaintiff's Opposition to Motion to Dismiss
21) First Amended Complaint
22) Date: September 4, 2008
23) Time: 1:30 p.m.
24) District Judge: Janis L. Sammartino
25) Fl./Room: 3/6
26)
27) [ORAL ARGUMENT NOT REQUIRED]
28) [Civil Rule 7.1(d)(2)]

1 Plaintiff RICHARD A. SILBER (“Plaintiff”) respectfully objects to and seeks an order
 2 striking the following proffered evidence set forth in defendant SHOP-VAC
 3 CORPORTATION’s (“Shop-Vac”) Motion to Dismiss the First Amended Complaint.

4 **EVIDENTIARY OBJECTIONS TO PROFERRED EVIDENCE SET FORTH IN**
 5 **DEFENDANT’S MOTION TO DISMISS**

6 1. Page 2, Lines 15-16 and Footnote 1 on Page 3 (“Shop-Vac, with factories in
 7 Pennsylvania and New York employing hundreds of American workers....¹” and “¹ Shop-Vac
 8 also maintains a plant in China which labels its goods “Made in China.”)

9 Objection. Plaintiff objects to this portion of the Motion to Dismiss as there is no
 10 evidentiary basis set forth in support of these purported “factual” contentions. As such, Plaintiff
 11 objects because the statements lack foundation and are tantamount to inadmissible hearsay. Fed.
 12 R. Evid. 901, 801.

13 **CONCLUSION**

14 Plaintiff respectfully requests that the Court sustain the above objections and strike the
 15 proffered evidence referenced above as Shop-Vac fails to set forth the necessary foundation to
 16 establish admissible evidence.

17 Dated: August 21, 2008

Respectfully submitted,

18 DEL MAR LAW GROUP, LLP

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 24 individual and on behalf of all others similarly
 25 situated